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RECENT DECISIONS

ARREST—WAIVER BY OR ESTOPPEL AGAINST MARRIED WOMEN TO ASSERT EXEMPTION.—Under a State statute, a married woman was exempt from arrest in civil causes. The defendant, who came into the State masquerading as a single woman, was sued for alienation of affections of the plaintiff's husband. The defendant was arrested and gave a bail bond with two sureties for her appearance in court and for the payment of the judgment should it be rendered against her, the bond being duly filed in court. She did not disclose the fact that she was married until the trial was well under way. When judgment was rendered against her, the defendant sought to escape liability on her bond upon the ground that she was a married woman and exempt from arrest under the statute. *Held*, the defendant waived her exemption by giving the bond and by concealing the fact that she was married. *Kallock v. Elward* (Me.), 108 Atl. 256.

Exemption from arrest is a personal privilege, going not to the validity of the process but to that of the service, and it may be waived. *Chase v. Fish*, 16 Me. 132; *Woods v. Davis*, 34 N. H. 328; *Brown v. Getchell*, 11 Mass. 11. Neglect to avail oneself promptly of an exemption from arrest will be construed as a waiver of the privilege, so that one is estopped from afterwards claiming it. *Moses v. Richardson*, 8 B. & C. 421; *Prentis v. Commonwealth*, 5 Rand. (Va.) 697, 16 Am. Dec. 782; *Wood v. Kinsman*, 5 Vt. 588. Thus, a plea in bar is held to constitute a waiver of the defendant's exemption from arrest. *Randall v. Crandall*, 6 Hill (N. Y.) 342. The exemption should be set forth by means of a dilatory plea. *Wilson v. Nettleton*, 12 Ill. 61.

The giving of a prison-bonds bond without insisting upon the privilege of exemption has been held to constitute a waiver of exemption on the part of the defendant. *Tipton v. Harris*, 1 Peck (Tenn.) 414. However, by the weight of authority, the mere giving of a bail bond does not, in itself, constitute a waiver. *Larned v. Griffin*, 12 Fed. 590; *Dickinson v. Farwell*, 71 N. H. 213, 51 Atl. 624. *Contra*, *Stewart v. Howard*, 15 Barb. (N. Y.) 26. See *Brown v. Getchell*, *supra*. Nor is mere silence on the part of the defendant a waiver of exemption. See *Swift v. Chamberlain*, 3 Conn. 537. But see *Weston v. Palmer*, 51 Me. 73, where the court refused a writ of error to a married woman who had allowed judgment to go against her by default without revealing her status and held that the judgment must stand as against a *feme sole*.

An action of trespass for false imprisonment will not lie against one who arrests, or causes to be arrested, a person privileged from arrest, if the process be valid on its face and issue out of a court of competent jurisdiction. See *Woods v. Davis*, *supra*; *Winchester v. Everett*, 80 Me. 535, 15 Atl. 596, 1 L. R. A. 425, 6 Am. St. Rep. 228.

In Virginia, as generally elsewhere, the court takes no notice *ex officio* of a privilege from arrest, but the party claiming it must set it forth by a plea or a motion at the proper time. Otherwise he will be

considered to have waived the privilege. See *Prentis v. Commonwealth*, *supra*; *Turnbull v. Thompson*, 27 Gratt. (Va.) 306, 310.

CARRIERS—DAMAGES—UNUSUAL DAMAGES FOR DELAY IN TRANSPORTATION.—A package was delivered to the defendant express company for shipment. The package was marked "Please Rush," and the consignor informed the defendant at the time of shipment that the package contained a quantity of hog cholera serum, and urged the defendant to start the shipment as soon as possible. The shipment was delayed due to the negligence of the defendant, and as a result of this delay the consignee lost a number of hogs from death by cholera. The consignee brought an action to recover damages for this loss. *Held*, judgment for the plaintiff. *Adams Express Co. v. Allen* (Va.), 100 S. E. 473.

Information given to the carrier of certain peculiar features of the article to be shipped and of the necessity for haste, or such information as is given by the name and appearance of the article itself, if unusual, will be sufficient to charge the carrier with knowledge of the special use to which the consignee of the article desires to put it. This information will constitute notice of any peculiar loss which may probably arise by reason of delay. See *Harper Furniture Co. v. Southern Express Co.*, 148 N. C. 87, 62 S. E. 145, 128 Am. St. Rep. 588, 30 L. R. A. (N. S.) 483, and note.

The damages in such cases are different from the usual damages resulting in cases of delay in transportation, but they are nevertheless only the "ordinary" damages from the delay of such a peculiar shipment, and do not constitute "special" damages. Such damages are natural and "general," being in the contemplation of the parties, though not expressly mentioned, when the contract of carriage was entered into. In the instant case the death of the hogs was the contemplated damage which presumably was in the minds of the parties at the time the contract of shipment was made. *Weston v. Boston, etc., R. Co.*, 190 Mass. 298, 76 N. E. 1050, 4 L. R. A. (N. S.) 569, 5 Ann. Cas. 825. This case last cited involved the same principles, as applied to a shipment of theatrical equipment.

The only general damages recoverable for breach of contract are such as may fairly and reasonably be considered as arising *naturally*, that is, according to the usual course of things from the breach itself, or such damages as may reasonably be supposed to have been in the contemplation of both parties when the contract was made. See *Hadley v. Baxendale*, 9 Exch. 341, 23 L. J. Exch. 179, 5 Eng. Rul. Cas. 502.

The decision in the instant case is undoubtedly a correct enunciation of the principles applicable.

CARRIERS—DEMURRAGE—DUTY TO DELIVER—CLAIM BY THIRD PERSON.—The plaintiff, having no title to certain goods, delivered them to the defendant, a common carrier, for shipment. At the time of acceptance the defendant had no knowledge of the plaintiff's want of title, and only learned of this fact when the real owner of the goods filed a suit against the defendant for conversion. Pending this suit, the defend-